

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**ENRICO LEVY,**

**Plaintiff,**

**vs.**

**STATE OF ILLINOIS DEPARTMENT OF  
CORRECTIONS, et al.,**

**Defendants.**

**CIVIL NO. 08-cv-306-DRH**

**MEMORANDUM AND ORDER**

**HERNDON, Chief Judge:**

This matter is before the Court *sua sponte*. On February 4, 2009, the Court denied Plaintiff's motion to proceed *in forma pauperis* after finding that Plaintiff has had three or more prior prisoner actions dismissed because each was frivolous, malicious, or failed to state a claim upon which relief may be granted. *See* (Doc. 9). The Court also found that Plaintiff was not under imminent danger of serious physical injury. *Id.* Plaintiff was directed to pay the \$350 filing fee for this action within 15 days. On February 25, 2009, Plaintiff filed a notice of appeal (Doc. 11). On April 6, 2009, the Seventh Circuit Court of Appeals dismissed Plaintiff's appeal (Doc. 20). The Court has not received payment of the full \$350 filing fee for this action. Accordingly, the instant case is **DISMISSED**, with prejudice, pursuant to Rule 41(b) for failing to pay the filing fee as previously ordered by this Court.

**IT IS SO ORDERED.**

**DATED:** June 4, 2009

/s/ David R. Herndon

**DISTRICT JUDGE**